

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

VULCAN INC.,

Plaintiff,

v.

ZURICH AMERICAN INSURANCE
COMPANY, et al.,

Defendants.

NO. 2:21-cv-00336-BJR

JOINT STATUS REPORT AND ORDER
GRANTING 60-DAY EXTENSION OF
STAY

Further to the Court's Minute Order of May 28, 2021, in which the Court stayed the above-captioned matter until August 26, 2021, and instructed the parties to submit a joint status report on or before August 26, 2021, the parties provide the following report:

A. Status of the Case

This is a declaratory judgment action filed by Vulcan on its behalf and that of its affiliated companies relating to damages incurred as a result of government-ordered shutdowns of various businesses and business enterprises relating to the COVID-19 pandemic. The Vulcan action is brought under a tower of commercial property insurance policies issued by defendant insurers to Vulcan as the First Named Insured and its subsidiaries, among other interests as set

1 forth in the policies. The instant legal action was filed in order to preserve Vulcan's claims
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 3 under the respective insurers' policies, and soon thereafter, the Court granted the parties' joint
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 5 motion to stay this action while defendant insurers continued their investigations of Vulcan's
 6
 7 insurance claims.
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9 On August 25, Vulcan received a coverage position from all defendant insurers except
 10
 11 one, Evanston Insurance Company ("Evanston"). Endurance provided its coverage position on
 12
 13 March 10, 2021, Zurich on August 17, 2021, and Interstate on August 26, 2021. With the
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 15 exception of Zurich and Interstate, all responding insurers have denied coverage for all claims.
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 17 Zurich and Interstate agreed to cover a Vulcan claim for Interruption by Communicable Disease,
 18
 19 subject to adjustment of the claimed losses to measure the amount of covered loss.
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21 **B. Subject Matter Jurisdiction**

22
 23 Vulcan filed this lawsuit in federal court on the basis of diversity jurisdiction but has just
 24
 25 recently raised, and is currently investigating, questions regarding the amount in controversy and
 26
 27 diversity of citizenship. While the Insurers cooperate with Vulcan during its investigation, this
 28
 29 Court retains, and no defendant insurer waives, this Court's diversity jurisdiction. Similarly,
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 31 Vulcan does not waive any rights it may have with regard to contractual or extracontractual
 32
 33 claims arising out of the Insurers investigation and compliance with Washington's Unfair Claims
 34
 35 Settlement Practices Act.
 36

37 **C. Request for Extension of Stay**

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 39 In order to provide the Court with accurate information regarding subject matter
 40
 41 jurisdiction, the parties request an extension of the current stay of litigation for an additional 60
 42
 43 days to October 26, 2021. After the expiration of this 60-day extended stay, the parties will
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 45

1 jointly provide the Court with sufficient information to allow the Court to determine whether
2
3 diversity subject matter jurisdiction exists, and if the parties dispute whether diversity exists.
4

5 **Counsel for Plaintiff Vulcan, Inc.:**
6

7
8 DATED: August 26, 2021
9

s/ Dale L. Kingman

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20 **Syndicate 2003 (XLC Lead), Great Lakes**
21 **Insurance SE, Int'l Ins. Co. of Hannover**
22 **SE, Lloyd's of London Syndicate 1414**
23 **(ASC Lead), and Syndicate 1686 (AXS**
24 **Lead):**
25

26 DATED: August 26, 2021
27

s/ Carl E. Forsberg

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35 DATED: August 26, 2021
36

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1 DATED: August 26, 2021

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21 DATED: August 26, 2021

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ORDER

At the request of the parties, the stay in this case is hereby extended by 60 days, until
October 26, 2021. The parties shall file a joint status report on or before that date. IT IS SO
ORDERED.

DATED this 27th day of August, 2021.



Hon. Barbara J. Rothstein
United States District Judge